

### **REMARKS/ARGUMENTS**

Applicants thank the Examiner for his careful examination of the application. Reconsideration of the present application is respectfully requested in light of the previous amendments and the following remarks, which are responsive to the Office Action mailed November 17, 2005 and the telephonic interview with the Examiner on March 7, 2006. Applicant has attached Examiner's summary of the telephonic interview with the Examiner to this response.

In the claims, independent claims 1, 21 and 38 have been amended to further characterize the invention. Claim 15 has been canceled.

Claims 1-6, 8-13, 16-17, 19-26, 28-34, 37-42, and 43-47 remain in the application.

#### **I. Drawings:**

The Examiner has objected to the drawings on the basis that reference characters "2" and "25" have both been used to represent the Z bar in Figures 2, 4 and 5. In fact, reference character "2" refers to the Z-bar and reference character "25" refers to the lower horizontal member, as noted in the specification. The Z bar extends along the bottom half of the lower horizontal member as means for holding the shutter against a structure as shown in Figures 2, 4 and 5.

#### **II. Claims Rejected Under 35 U.S.C. § 112:**

The Examiner has rejected claims 1-45 under 35 U.S.C. § 112 for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended independent claims 1, 21 and 38 to further clarify the subject matter which applicant regards as the invention.

Applicant has revised Claims 1, 21 and 38 to further define "means for locking said louvers into a closed position". Applicant has revised Claim 16 to further define how a Z-bar functions to hold a shutter against an external opening. Applicant has also revised Claim 1 to read "said shutter" in line 12 and removed "said shutter" from line 16.

Applicant has revised Claim 2 and 22 to clarify that the operating mechanism is an additional element of the invention. Claim 2 has also been amended to clarify that the louvers rotate around a plurality of horizontal axes. Applicant has revised Claim 38 to remove the word "type" from the claim. Claim 38 has also been revised to clarify Applicant is referring to the "closed position" as set forth earlier in the claim.

### **III. Claims Rejected Under 35 U.S.C. § 103(a):**

The Examiner has rejected claims 1, 2, 4, 5, 8, 11, 17, 21, 22, 24, 25, 28 and 32 under 35 U.S.C. § 103(a) as being obvious over the *Zveibil* patent in further view of *Arehart*. The Examiner has also rejected claims 1, 2, 4, 5, 8, 12, 15, 21, 22, 24, 25, 28 and 33 under 35 U.S.C. § 103(a) as being obvious over *Zveibil* in further view of *Astrizky*. The Examiner has also rejected claims 1, 2, 4, 5, 8, 16, 21, 22, 24, 25, and 28 under 35 U.S.C. § 103(a) as being obvious over *Zveibil* in view of *Goldhaber*. The Examiner has also rejected Claim 38 under 35 U.S.C. § 103(a) as being obvious over the *Zveibil* patent in further view of *Lane* and *Yadidya*. Applicant respectfully traverses all Examiner's rejections and specifically addresses those rejections directed to independent claims.

### **The Examiner has failed to establish that the cited references teach or suggest all the limitations of Independent Claims 1 and 21**

The Examiner has failed to establish that the combination of the cited references teach or suggest all of the limitations of claims 1 or 21. As stated in 35 U.S.C. §103(a), a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person of ordinary skill in the art to which said subject matter pertains. A rejection under 35 U.S.C. §103(a) is authorized whereby it is necessary to combine a single reference with one or more other references to meet the rejected claim. M.P.E.P. §706.02(j). Furthermore, the Examiner must establish a *prima facie* case of obviousness whereby each of three criteria must be met:

1. There must be a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.
2. There must be a reasonable expectation of success.
3. The prior art reference must teach or suggest all the claim limitations.

*In re Rijckaert*, 9 F.3d 1531, 1532 (Fed. Cir. 1993); M.P.E.P. §2143.

The combination of *Zveibil* and *Arehart* does not describe every element found in independent claims 1 or 21, the independent claims from which claims 2-6, 8-13, 15-17, 19-20, 22-26, 28-34 and 37 depend. Identified below are the specific elements of claims 1 and 21 not found in *Zveibil* or *Arehart*.

#### **Zveibil and Arehart**

Neither *Zveibil* nor *Arehart* provide means for locking louvers in a closed position. Applicant's claims 1 and 21 specifically claim *means for locking the louvers into a closed position wherein said means holds said louvers at a maximum point of rotation*. The novelty of Applicant's shutter and the fact that Applicant's shutter is able to withstand hurricane force winds includes the element that the louvers lock into place, in combination with all other elements claimed. The prior art references cited by Examiner do not teach or suggest all the claim limitations, specifically, means for locking louvers in a closed position, and therefore the invention of claims 1 and 21 are not obvious in light of the cited art. Since *Zveibil* nor *Arehart* do not disclose the structure of Applicant's invention, the combination cannot be equated to performing the same as the Applicant's invention, i.e., providing protection from hurricane force winds. Accordingly, neither claims 1 or 21 are obvious in view of *Zveibil* and *Arehart*.

When the L-angle bracket is used as the means for locking the louvers in a closed position, the L-angle bracket functions to lock the louvers into place by resting firmly against the building or window when the outer frame of the shutter is secured to the building by screws. See paragraph 25 of the application.

Accordingly, the louvers are "locked into a closed position" by the fact that the L-angle will not be able to be moved because it rests adjacent the building or window.

**Zveibil and Astrizky**

The Examiner has also rejected claims 1, 2, 4, 5, 8, 12, 15, 21, 22, 24, 25, 28 and 33 under 35 U.S.C. § 103(a) as being obvious over *Zveibil* in further view of *Astrizky*. The combination of *Zveibil* and *Astrizky* does not describe every element found in independent claims 1 or 21, the independent claims from which claims 2-6, 8-13, 15-17, 19-20, 22-26, 28-34 and 37 depend. Neither *Zveibil* nor *Astrizky* provide means for locking louvers in a closed position. Applicant's independent claims 1 and 21 specifically claim *means for locking the louvers into a closed position wherein said means holds said louvers at a maximum point of rotation*. The prior art references cited by Examiner do not teach or suggest all the claim limitations, specifically, means for locking louvers in a closed position, and therefore the invention of claims 1 and 21 are not obvious in light of the cited art.

**Zveibil and Goldhaber**

The Examiner has also rejected claims 1, 2, 4, 5, 8, 16, 21, 22, 22, 24, 25, and 28 under 35 U.S.C. § 103(a) as being obvious over *Zveibil* in view of *Goldhaber*. The combination of *Zveibil* and *Goldhaber* does not describe every element found in independent claims 1 or 21, the independent claims from which claims 2-6, 8-13, 15-17, 19-20, 22-26, 28-34 and 37 depend. Neither *Zveibil* nor *Goldhaber* provide means for locking louvers in a closed position. Applicant's independent claims 1 and 21 specifically claim *means for locking the louvers into a closed position wherein said means holds said louvers at a maximum point of rotation*. The prior art references cited by Examiner do not teach or suggest all the claim limitations, specifically, means for locking louvers in a closed position, and therefore the invention of claims 1 and 21 are not obvious in light of the cited art.

**The Examiner has failed to establish that *Zveibil, Lane and Yadidya* teach or suggest all the limitations of Independent Claim 38**

As previously noted, the combination of references must teach or suggest all the claim limitations in order to establish an obviousness rejection. The combination of *Zveibil, Lane* and *Yadidya* does not describe every element found in independent claim 38. Identified below are the specific elements of claim 38 not found in *Zveibil, Lane* and *Yadidya*.

*Zveibil, Lane* and *Yadidya* do not provide means for locking louvers in a closed position. Applicant's claim 38 specifically claims *an L-angle bracket functions to actuate said louvers by slidably engaging said louvers and said L-angle bracket locks said louvers in a closed position by holding the louvers at a maximum point of rotation*. Applicant's shutter is able to withstand hurricane force winds because the louvers lock into place, in combination with all other elements claimed. The prior art references cited by Examiner do not teach or suggest all the claim limitations, specifically, means for locking louvers in a closed position, and therefore the invention of claim 38 is not obvious in light of the cited art. Since *Zveibil, Lane* and *Yadidya* do not disclose the structure of Applicant's invention, the combination cannot be equated to performing the same as the Applicant's invention, i.e., providing protection from hurricane force winds. Accordingly, claim 38 is not obvious in view of *Zveibil, Lane* and *Yadidya*.

**The Examiner has failed to establish that the cited references teach or suggest all the limitations of Dependent Claims 2-6, 8-17, 19-20,22-26, 28-34, 37, 40-42, and 44-47**

Dependant claims 2-6, 8-17, 19-20,22-26, 28-34, 37, 40-42, and 44-47 each incorporate all of the limitations contained in claims 1, 21 and 38, respectively from which they depend. Accordingly, dependent claims 2-6, 8-17, 19-20,22-26, 28-34, 37, 40-42, and 44-47 are not obvious because the cited references failed to disclose each and every element of the challenged claims and a dependent claim shall be construed to

include all the limitations of the claim incorporated by reference into the dependent claim. M.P.E.P. 608.01(n). As noted above, the combination of references cited against each independent claim fails to teach each and every element of independent claims 1, 21 and 38 and likewise fails to teach or suggest each and every element of the independent claims. None of the additionally cited references teach or suggest what is lacking from the primary references.


#### IV. CONCLUSION

Applicants submit that this Response, if entered, places the claims in a condition for allowance and respectfully request that such action be taken by the Examiner at this time.

Should a telephone conference be necessary to assist the Examiner's evaluation of this application, a telephone call to the undersigned at (305) 448-7089 is respectfully solicited.

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Respectfully submitted,

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